

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANGELA MALCICH,)
)
Plaintiff,)
)
v.) No. 4:20-CV-01030-AGF
)
ST. LOUIS COUNTY,)
et al.,)
)
Defendants.)

JUDGMENT AND ORDER APPROVING
WRONGFUL DEATH SETTLEMENTS

Plaintiff Angela Malcich, the surviving mother of decedent Daniel Stout and representative of the wrongful death class (“Plaintiff”), appears by and through her attorneys. Defendants St. Louis County, Alexis Woods, Michelle Wright-Berry, Brian Mitchell, and Nathaniel Mellenthin (the “County Defendants”) appear by and through their attorneys. Defendant Troy Doyle appeared through his attorney. Connie Heitman, Janet Duwe, and Robert Adams (the “Nurse Defendants”) appear by and through their attorneys.

All parties having expressly waived a jury trial in regard to Plaintiff’s claim against all defendants, the cause is submitted to the Court, and evidence in support of the Joint Application for Approval of Wrongful Death Settlements has been heard. After duly examining the pleadings and hearing the statements of counsel, testimony of Plaintiff as

and the evidence submitted and being otherwise fully advised on the premises, the Court finds:

1. Plaintiff is the natural mother of the decedent and therefore entitled to sue for and recover damages as permitted under Mo. Rev. Stat. § 537.080.

2. The decedent's father is deceased. Additionally, the decedent left no surviving spouse or children. He therefore left no surviving lineal descendants of any deceased children, natural or adopted.

3. As such, Plaintiff is the only party entitled to sue for and recover damages in this matter. *See* Mo. Rev. Stat. § 537.080(1). The Court finds no other party need be joined or notified of this wrongful death settlement. *See* Mo. Rev. Stat. § 537.095.

4. Plaintiff initially filed her complaint on June 11, 2020 in the Circuit Court of St. Louis County, Missouri; St. Louis County removed the case to this Court on August 6, 2020. (Doc. No. 1). Plaintiff filed her first amended complaint on December 11, 2020 and her second amended complaint on June 15, 2020. (Doc. Nos. 20 and 136). Plaintiff alleged six counts: (i) Eighth and Fourteenth Amendment Violation for Deprivation of Medical Care; (ii) Municipal Custom and/or Failure to Instruct, Train, Supervise, Control and/or Discipline; (iii) Civil Conspiracy; (iv) Negligence *per se*; (v) Wrongful Death; and (vi) Violations of the Missouri Sunshine Law. (Doc. No. 136).

5. Plaintiff has entered into agreements with all defendants compromising and settling any and all claims and causes of action as to all defendants subject to Court approval as permitted and required by Mo. Rev. Stat. § 537.095.

6. The total amount of the proposed settlement of all claims against all defendants is \$1.2 million. St. Louis County will pay the total amount of \$650,000. The Nurse Defendants will together pay the total amount of \$550,000.

7. Plaintiff proposed allocating the net proceeds of the proposed settlement entirely to herself, as she is the only member of the class described in Mo. Rev. Stat. § 537.080(1).

8. The Court has reviewed copy of the releases between Plaintiff and St. Louis County and between Plaintiff and the Nurse Defendants, including the terms thereof and the associated financial distribution. *See* (Doc. No. 192). The Court expressly approves thereof.

9. The Court finds that Plaintiff's motion is made in good faith, is fair, and is reasonable, and that it should be granted.

10. The Court finds that the proposed settlement agreements as to St. Louis County and the Nurse Defendants are fair and reasonable. The Court approves the aforesaid terms and conditions of the settlement. The total amount of the settlement and distribution thereof is approved as set forth in Plaintiff's motion.

11. Plaintiff has retained the services of Pleban & Associates and has entered into a contract for attorneys' fees in this matter.

12. The Court has reviewed the fees and expenses associated with said representation and finds that the designated apportionment is fair and reasonable. The Court expressly approves the designated apportionment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT:

13. Plaintiff's motion to approve wrongful death settlement, (Doc. No. 191), is granted.

14. The Court approves the proposed settlement in the amount to of \$1.2 million, with St. Louis County responsible for payment to Plaintiff in the amount of \$650,000.00, and the Nurse Defendants responsible collectively for payment to Plaintiff in the amount of \$550,000.00.

15. All parties are to bear their own court costs, attorneys' fees, and expenses.

16. St. Louis County and the Nurse Defendants shall make, or cause to be made, the payments as set forth above.

17. Plaintiff is ordered to deduct and pay attorneys' fees and costs from the proceeds of the settlement. Attorneys' fees and expenses in the total of \$569,233.86, as set forth in (Doc. No. 191), are to be paid by Plaintiff to Pleban & Associates, LLC, out of the total settlement sum.

18. Plaintiff is directed to retain the net proceeds of the settlement as Plaintiff is the only member of the class of persons described in Mo. Rev. Stat. § 537.080(1). She is therefore the only person entitled to the proceeds of the settlement.

19. Upon payment and receipt of the settlement proceeds, Plaintiff's case shall be dismissed with prejudice, with each party to bear its own costs and attorneys' fees. Plaintiff shall file a Receipt and Satisfaction of Judgment along with her dismissal.

20. Defendants are directed to present settlement drafts to Plaintiff's counsel on or before September 28, 2022.

21. No later than October 14, 2022, the parties must complete all distributions, dismissals, court filings, or other required procedures set forth above or addressed at the September 7, 2022 hearing.

22. The trial setting and all current deadlines are vacated as moot.

SO ORDERED:

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 8th day of September, 2022